IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 976 of 2005

Between:

1 G. Mohan Goud, S/o. Narsappa Goud,
R/o. Ghatt Village and Mandal, Mahabubnagar District.
2 G. Narender Goud, S/o. G. Venkatanna Goud,
R/o. Ghatt Village and Mandal, Mahabubnagar District.

..... PETITIONERS

AND

1 The Deputy Commissioner of Prohibition and Excise, Mahabubnagar

Division at Mahabubnagar
2 The Prohibition & Excise Superintendent, Mahabubnagar

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring the proceedings dt. 30-5-2002 in Cr. No. E1/652/02 on the file of the first respondent and the proceedings dt. 23-3-2002 in Rc.No. B1/470/2002 on the file of the 2nd Respondent herein, as illegal, arbitrary and without jurisdiction; Award costs and pass such other order or orders.

Counsel for the Petitioner:MR.N.SRIDHAR REDDY

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following ORDER:

The petitioners claim to be the members of the Toddy Tappers Co-operative Society, Ghatt village and Mandal, Mahabubnagar district. On 22.03.2002, an inspection was conducted at the toddy shop of the Society and when the samples were tested with prescribed chemicals, it emerged that the toddy was adulterated. A panchnama was drawn. On the basis of the same, the second respondent suspended the licence of the Society. The Society preferred an appeal before the first respondent and it was dismissed on 30.05.2002. The Society filed W.P.No.15025 of 2002. It was disposed of on 23.06.2003, leaving it open to the Society to make a fresh application for licence. The petitioners contend that though the licence was suspended, pending enquiry, way back in the year 2002, neither any show cause notice was issued nor any final orders were passed thereon. The petitioners accordingly seek a declaration that the order of suspension, as confirmed in the appeal, is liable to be set aside.

Heard the learned counsel for the petitioners and the learned Government Pleader for Prohibition & Excise.

It is true that more than 2 ½ years have elapsed since the suspension of the licence of the petitioners, pending enquiry. If the same is viewed in isolation, necessary relief needs to be granted to the petitioners. Suspension pending enquiry cannot be permitted to remain in force for such a long time. For all practical purposes, it has become a substantive penalty against the petitioners. This Court would, certainly, have passed appropriate orders in this regard, but

for an important fact which has bearing on the matter.

The licence of the Society expired on 31.03.2002. Even if the order of suspension is set aside, the petitioners or the Society would not be entitled to conduct its business, unless the licence is renewed. The application for renewal is said to have been made long back and it is alleged that no orders have been passed thereon.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing that the second respondent shall consider the application of the Toddy Tappers Co-operative Society, Ghatt village for renewal of the licence and pass appropriate orders thereon within four weeks from today. Since the order of suspension has been operating for the past several years, it is directed that the same shall not be taken into account while considering the application for renewal. If no show cause notice was issued or no criminal proceedings were initiated as yet, the first respondent shall not proceed with the matter, having regard to the lapse of nearly three years. There shall be no order as to costs.

04.02.2005

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To

1 The Deputy Commissioner of Prohibition and Excise, Mahabubnagar

Division at Mahabubnagar

2 The Prohibition & Excise Superintendent, Mahabubnagar

3 Two CCs. to the G.P. for Prohibition & Excise, High Court of A.P.,

Hyderabad (OUT).

4 Two CD copies.